



Washington State  
Department of Health  
Board of Osteopathic Medicine and Surgery  
Meeting Minutes  
January 26, 2007

The meeting of the Washington State Board of Osteopathic Medicine and Surgery was called to order by Daniel Dugaw, DO, Chair, at 9:00 a.m. The meeting was held at: St. Francis Hospital, 34515 9<sup>th</sup> Avenue South, Board Room, Federal Way, Washington 98003.

Board Members Present: Daniel Dugaw, DO, Chair  
William Gant, Public Member, Vice Chair  
Thomas Shelton, DO  
Thomas Bell, DO  
Catherine Hunter, DO  
Roger Ludwig, DO

Staff Present: Blake Maresh, Executive Secretary  
Melissa Burke-Cain, Assistant Attorney General  
Arlene Robertson, Program Manager  
Judy Young, Staff Attorney  
Joe Mihelich, Administrative Staff

Guests Attending: Kathi Itter, Executive Director,  
Washington Osteopathic Medical Association  
Linda Dale, PA, WAPA  
Mr. Vu, Osteopathic student

Open Session

1. Call to Order
  - 1.1 Approval of Agenda  
The agenda was approved with modification to 2.3. The last sentence of the description was deleted.
  - 1.2 Approval of Minutes - November 17, 2006 meeting  
The November 17, 2006 meeting minutes were approved as submitted.

- 1.3 Approval of Minutes - December 13, 2006 conference call minutes  
The December 13, 2006 minutes were approved.
- 1.4 Approval of Minutes - December 20, 2006 conference call minutes  
The December 20, 2006 minutes were approved.
- 1.5 Approval of Minutes - January 10, 2007 conference call minutes  
The January 10, 2007 minutes were approved.

2. Rules Hearings

Dr. Dugaw served as presiding officer for the rules hearing. Attendees were given the opportunity to provide testimony. Ms. Itter and Ms. Dale indicated their organizations supported the rules. No other testimony was provided. Staff reported that no written testimony had been received.

2.1 CR 102 Proposed Rule Making - WSR 06-22-097  
WAC 246-854-030 Osteopathic Physician Assistant  
Prescriptions

The Board adopted WAC 246-854-030 as filed under WSR 06-22-097 and approved filing of the CR103.

2.2 CR 102 Proposed Rule Making - WSR 06-22-100  
NEW SECTION WAC 246-854-010 - Approved training and additional skills and procedures.  
NEW SECTION WAC 246-854-015 - Utilization and supervision of an osteopathic physician assistant.  
NEW SECTION WAC 246-854-025 - Remote practice site-Utilization  
NEW SECTION WAC 246-854-035 - Osteopathic physician assistant-Scope of practice  
AMENDED SECTION WAC 246-854-080 - Osteopathic physician assistant application for licensure-Qualifications and requirements  
NEW SECTION WAC 246-854-085 - Interim permit-Qualifications and interim permit requirements  
The following rules will be repealed:  
WAC 246-854-020  
WAC 246-854-090

The Board adopted the rules as written that were filed under WSR 06-22-100 and approved filing of the CR103.

2.3 CR 102 Proposed Rule Making - WSR 06-22-103

NEW SECTIONS Osteopathic Physicians:

WAC 246-853-510 Use of Controlled Substances for Pain Control

WAC 246-853-520 What Specific Guidance Should an Osteopathic Physician follow?

WAC 246-853-530 What Knowledge Should an Osteopathic Physician Who Elects to Treat Chronic Pain Patients Possess?

WAC 246-853-540 How Will the Board Evaluate Prescribing for Pain?

NEW SECTIONS Osteopathic Physician Assistants:

WAC 246-854-120 Use of Controlled Substances for Pain Control

WAC 246-854-130 What Specific Guidance Should an Osteopathic Physician Assistant follow?

WAC 246-854-140 What Knowledge Should an Osteopathic Physician Assistant Who Elects to Treat Chronic Pain Patients Possess?

WAC 246-854-150 How Will the Board Evaluate Prescribing for Pain?

The Board adopted the rules filed under WSR 06-22-103 with modifications to WAC 246-853-520 and 246-854-130 to answer the questions. This was previously approved language omitted in the CR102 filing. Filing of the CR103 was approved.

2.4 CR 102 Proposed Rule Making - WSR 06-24-138

NEW SECTIONS OSTEOPATHIC PHYSICIAN:

WAC 246-853-600 Sexual Misconduct

WAC 246-853-610 Abuse

NEW SECTIONS OSTEOPATHIC PHYSICIAN ASSISTANT:

WAC 246-854-200 Sexual Misconduct

WAC 246-854-210 Abuse

The Board adopted the rules as written that were filed under WSR 06-24-138 and approved filing of the CR103.

The rules hearing concluded at 9:47 am.

3. Practice Issues

3.1 Use of laser, light, radiofrequency, and plasma devices: Medical Quality Assurance Commission - Beverly Thomas, Program Manager

## ISSUE

Ms. Thomas presented information regarding development of the Medical Quality Assurance Commission's (MQAC) laser device rules.

Laser, Light, Radiofrequency, and Plasma (LLRP) devices are regulated by the Federal Food and Drug Administration (FDA). Medical lasers are prescription devices available for sale only to licensed practitioners with prescriptive authority as determined by state law.

During its information gathering workshops, MQAC found many variables among the offices and clinics offering these services. Some had a physician on site, some have a physician off site, and some have no physician involvement at all. The services may be provided by physician assistants and registered nurses operating the devices; other clinics have cosmetologists and estheticians operating the lasers; while others have persons who hold no license administering the treatment.

MQAC determined that the use of lasers for skin treatment and hair removal can cause complications which include visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation. MQAC has received numerous inquiries over the past few years concerning the operation of these offices and clinics and regulation of LLRP devices. MQAC is concerned about patient safety when persons without any health care training use prescriptive devices on patients. One complaint was received about patient harm by an untrained person using a LLRP device. Physicians who attended the workshops reported they had treated patients who had complications during treatment in offices or clinics with no physician supervision.

The MQAC rules for physicians and physician assistants (licensed under 18.71 RCW and 18.71A RCW) address training, supervision, and delegation. Expectations for patient examination and diagnosis, record keeping, emergency and followup care are also addressed. The practice of medicine is clarified relative to these devices. The rules will go into effect March 1.

## ACTION

The Board requested that someone with expertise in lasers come to speak to the Board before moving forward with rules development.

3.2 Performing non-surgical cosmetic procedures: Medical Quality Assurance Commission - Beverly Thomas, Program Manager

Ms. Thomas provided an informational presentation which identified various types of non-surgical cosmetic procedures and the dangers associated with each. Among the procedures discussed were injections, chemical peels, microdermabrasion, sclerotherapy, soft-tissue fillers, and mesotherapy. The laser workshops revealed that physicians and physician assistants are inappropriately delegating invasive procedures to unlicensed persons or persons who are performing the procedures outside the scope of their license. The unlicensed practice program has received several complaints of unlicensed individuals performing these procedures.

MQAC has approved development of rules to address appropriate delegation and supervision. Ms. Thomas invited the Osteopathic Board to collaborate on the rule-making. This will allow both professions to gather information at the same time and develop consistent language. It will also allow for sharing resources.

ACTION

The Board approved filing the CR101 for rule-making to explore the issues and possibly develop rules. Staff will work with MQAC staff during the information gathering process.

3.3 Discuss patient safety initiatives being pursued by the Department of Health. (Standing Agenda Item)

There were no items for discussion.

4. Rules

4.1 Retired Volunteer Medical Worker License - Opportunity to provide feedback on the rules language

4.1.1 ESHB 1850

4.1.2 Draft language (2<sup>nd</sup> draft)

ISSUE

The Board reviewed the retired volunteer medical worker license draft rules language.

ACTION

The Board indicated the language was acceptable. However, implementation may be problematic since many of the emergency regulations are administered through Federal agencies.

Staff also advised that some changes may occur in this Legislative Session. A bill that would modify the language of ESHB 1850 has been filed.

- 4.2 Consider rules to delegate complaint review and investigative decision-making to board staff

ISSUE

The Board was asked to consider adopting rules to delegate complaint review and investigative decision-making to board staff.

ACTION

The Board approved filing the CR101 to commence the rules process.

5. Disciplinary Issues

5.1 Procedure 263: Reinstatement from Orders/Releases from STIDs upon completion

5.2 Review of Investigations by Reviewing Board Member Recommending Disciplinary Action or Further Investigation

ISSUE

The Department has adopted a formal procedure, Procedure 263, for handling Reinstatement from Orders/Releases from STIDs upon completion. The Board's policy OP95-10 states that the reviewing board member (RBM) will serve through compliance to make decisions relative any compliance issue, i.e., identifying continuing education that addresses the cause of the action in the Order or STID. The policy does not specifically outline a process for notifying the respondent that their compliance has been completed satisfactorily.

ACTION

The Board approved modifying its policy to reflect closure of these cases as outlined in Procedure 263. Policy OP95-10 will be modified to have the compliance staff follow #2 of Procedure 263 once the RBM has been satisfied that all of the compliance requirements have been completed.

Compliance staff will send a letter to STID respondents and a reinstatement order will be prepared for presentation to the Board for Orders.

- 6. Licensing
  - 6.1 USMLE STEP 3 - Test accommodations

ISSUE

The Federation of State Medical requests the Board consider replacing the USMLE CBT contract/agreement with a new USMLE Letter of Understanding. State boards are no longer involved in administration of the exams, which are now administered by Prometric Test Centers via computer.

ACTION

The Board of Osteopathic Medicine and Surgery reviewed the request and approved use of a Letter of Understanding in place of a more formalized contract.

Staff will advise the Federation of the Board's decision.

- 7. Program Manager Reports
  - 7.1 Budget Report - January 2007

Ms. Robertson reported that the budget report had not changed significantly since November. It still reflects a deficit in the allotment expenditures. Despite the negative expenditures, a modest revenue balance still exists.

- 7.2 Washington Physicians Health Program - November 2006 Statistical Information

The statistical information was provided for monitoring purposes only.

- 8. Executive Director Reports
  - 8.1 Department/Division Updates
  - 8.2 Legislation
    - 8.2.1 S-0466.1/07 Specifying the burden of proof in disciplinary action for health professionals.
    - 8.2.2 HB 1103 Amending sections of the Uniform Disciplinary Act relative to authority for conducting investigations, disposition of completed investigations, and taking emergency actions. Expands mandatory reporting mechanisms.

Mr. Maresh reported on the various bills before the Legislature that will impact the Board's business and authority. Staff will continue to monitor their progress.

Mr. Maresh advised that he is working on a project to explore different ways to obtain clinical expertise for disciplinary cases. It is hoped to have a pool of individuals that could be called upon in a timely fashion.

#### ACTION

The Board expressed concerns about the Department's support of House Bills 1100, 1101, 1103 and 1104 which would remove the medical decision-making from the Boards and Commissions. The Board indicated there appears to be a disconnect between the Board and the Department. Mr. Maresh was asked to share the Board's concerns with Department management.

#### 9. Other Business

9.1 Federation of State Medical Boards board member representation - May 3-5, 2007

#### ACTION

The Board determined Dr. Shelton and Mr. Gant would be the representatives to the Federation meeting. Dr. Shelton will serve as the voting delegate.

#### 10. Settlement Presentations

Thomas R. Cooke, DO - Docket No. 04-12-A-10270P Stipulated Findings of Fact, Conclusions of Law and Agreed Order on Reinstatement

Judy Young, Staff Attorney presented to Reinstatement Order for the Board's consideration.

Deliberations were held in Executive Session. The respondent will be advised of the Board's decision by mail.

#### Closed Session

##### 11. Report Reviews/Investigative Authorizations

Two reports were reviewed. One was forwarded to investigations. One file was closed Below Threshold: 2007-01-00010P.

##### 12. Disciplinary Case Reviews - Reviewing Board Member Reports

<u>Case Number</u>	<u>Case Disposition</u>
2002-11-00060P	Closed no cause for action; complaint unique closure



2006-06-00080P	Closed no cause for action; evidence does not support a violation
2005-08-00010P	Closed no cause for action; evidence does not support a violation
2006-10-00020P	Closed no cause for action; evidence does not support a violation
2006-05-00010P	Closed no cause for action; evidence does not support a violation
2006-06-00030A	Statement of Charges; denial of application
2006-04-00080P	Statement of Charges
2006-02-000180P	Closed no cause for action; no violation determined
2006-06-00050P	Closed no cause for action; evidence does not support a violation
2006-06-00070P	Statement of Charges

13. Open case report

A status report of open cases was provided for the Board's review.

14. Compliance Issues

There were no compliance issues.

15. Application Review

Three applications were reviewed and returned to staff for additional information. One application was reviewed and approved for licensure.

The meeting adjourned at 1:00 p.m.

Respectfully Submitted

Arlene Robertson  
Program Manager

